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Attorney for Plaintiff
Lilith Games (Shanghai) Co. Ltd.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Lilith Games (Shanghai) Co. Ltd.,
Plaintiff,
v.
uCool, Inc. and uCool Ltd.,
Defendants.

Case No. 15-cv-01267-SC

**DECLARATION OF JASON RAY IN
SUPPORT OF PLAINTIFF'S MOTION
FOR A PRELIMINARY INJUNCTION**

[Fed. R. Civ. P. 65]

Date: June 26, 2015
Time: 10:00 a.m.
Courtroom: 1, 17th Floor
Before: The Hon. Samuel Conti

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2 1. My name is Jason Ray, and I am over the age of twenty-one (21) years, of sound
3 mind, and fully competent to testify in this cause.

4 2. My name is Jason Ray, and I am a Managing Director for FTI Consulting
5 Technology, LLC (FTI). Unless otherwise indicated, I have personal knowledge of the facts set
6 forth in this report and, if called as a witness, could and would testify competently to such facts.

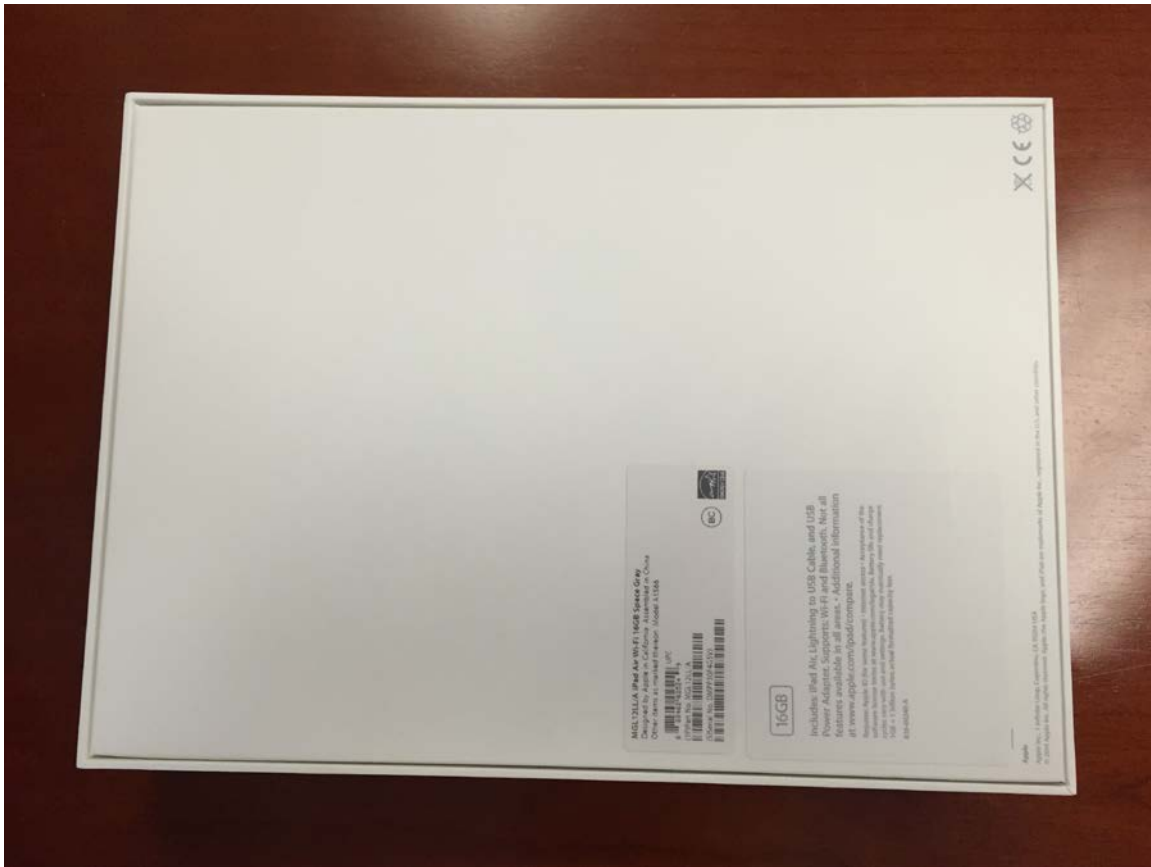
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8 3. FTI is one of the world's largest providers of ESI lifecycle services. Our employees
9 have supported and consulted on thousands of cases that included data collection, document review
10 and productions. I have personally participated in more than 200 electronic document reviews and
11 more than 500 electronic discovery productions. I have over 34 years of experience in litigation
12 support and technology services, including over eleven years of experience focused exclusively on
13 electronic discovery services. I have expertise in all phases of the electronically stored information
14 (ESI) lifecycle including electronic evidence acquisition and analysis, consulting on document
15 culling strategies, electronic evidence processing, document review systems and services, and
16 litigation repository and evidence production. I have personally managed several multi-state and
17 multi-national matters for companies in the financial services, pharmacology, high technology, and
18 entertainment industries.
19

20 4. In addition to my electronic discovery expertise, I have over 15 years of experience in
21 software development, as a programmer, designer, and development manager. I was the Chief
22 Executive Officer of explorati, LLC. for 3 years, an online game company that developed interactive
23 entertainment applications for personal computers and mobile devices.
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2 5. FTI was engaged by Baker & McKenzie LLP (“Counsel”) to conduct an examination
3 of an iOS game application, Heroes Charge from uCool, and generate a report of findings after
4 exercising the application. Based on my prior experience in electronic discovery, software
5 development, and the computer games industry, I was assigned to perform this examination.

6 6. On Wednesday, March 18th at 10:00 AM I purchased a new iPad Air tablet computer
7 with 16GB of memory at The Apple Store located at 1 Stockton Street, San Francisco, CA 94108.
8



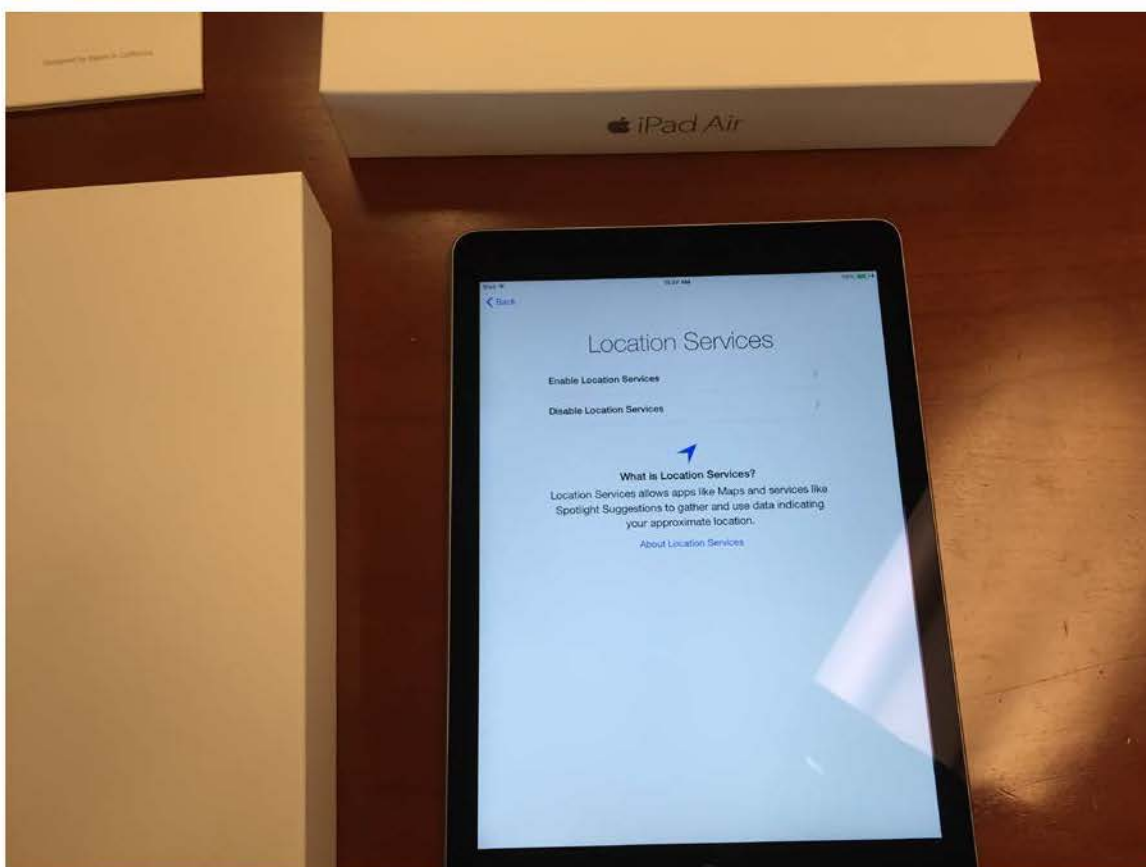
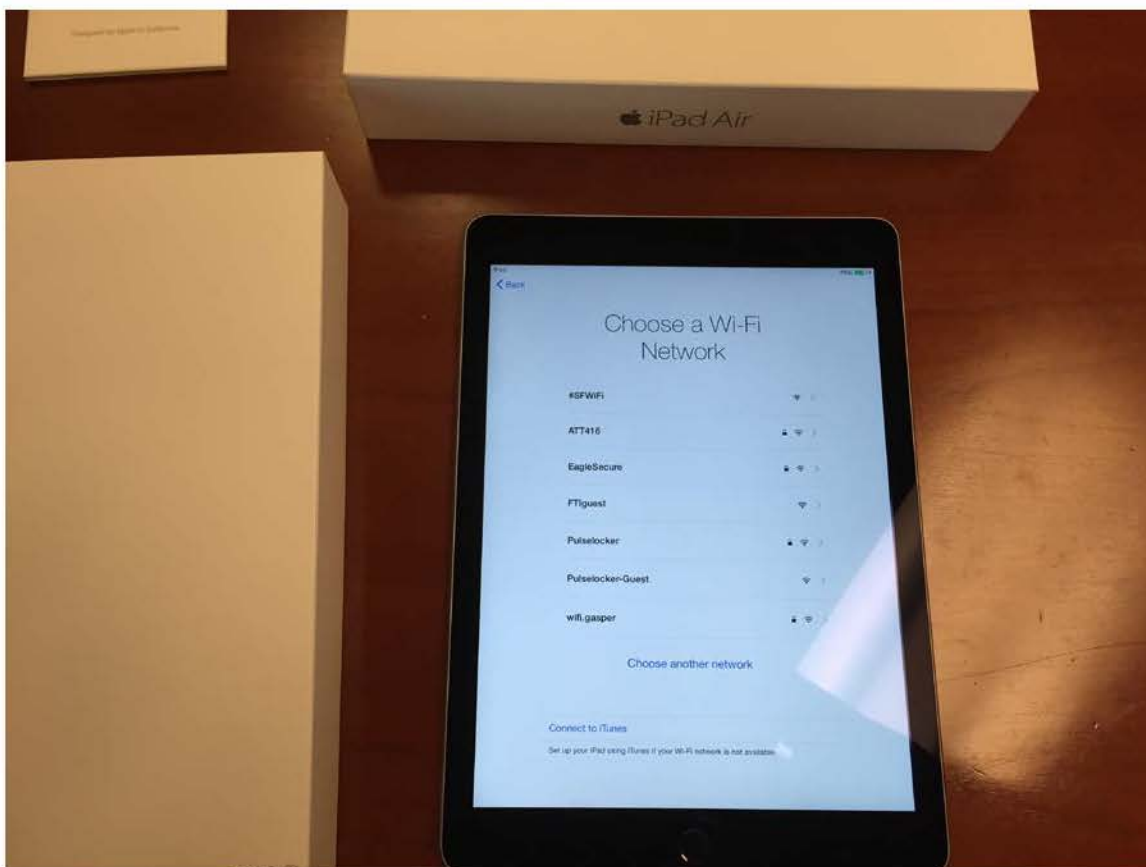


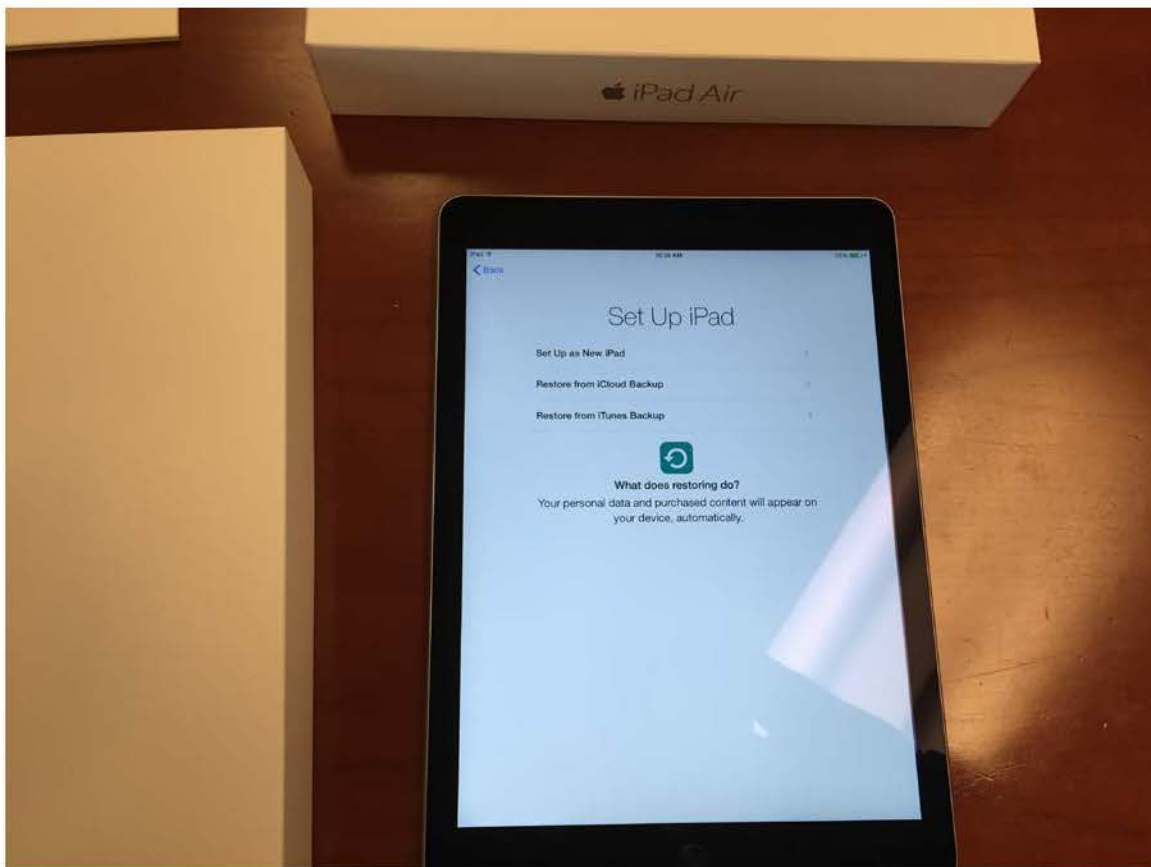
7. I returned to the FTI Office in San Francisco, located at 1 Front Street, San Francisco, CA 94111 where I conducted the examination. I unpacked the iPad and set it up as a new device, keeping the operating system at the shipped version level (iOS 8.2).

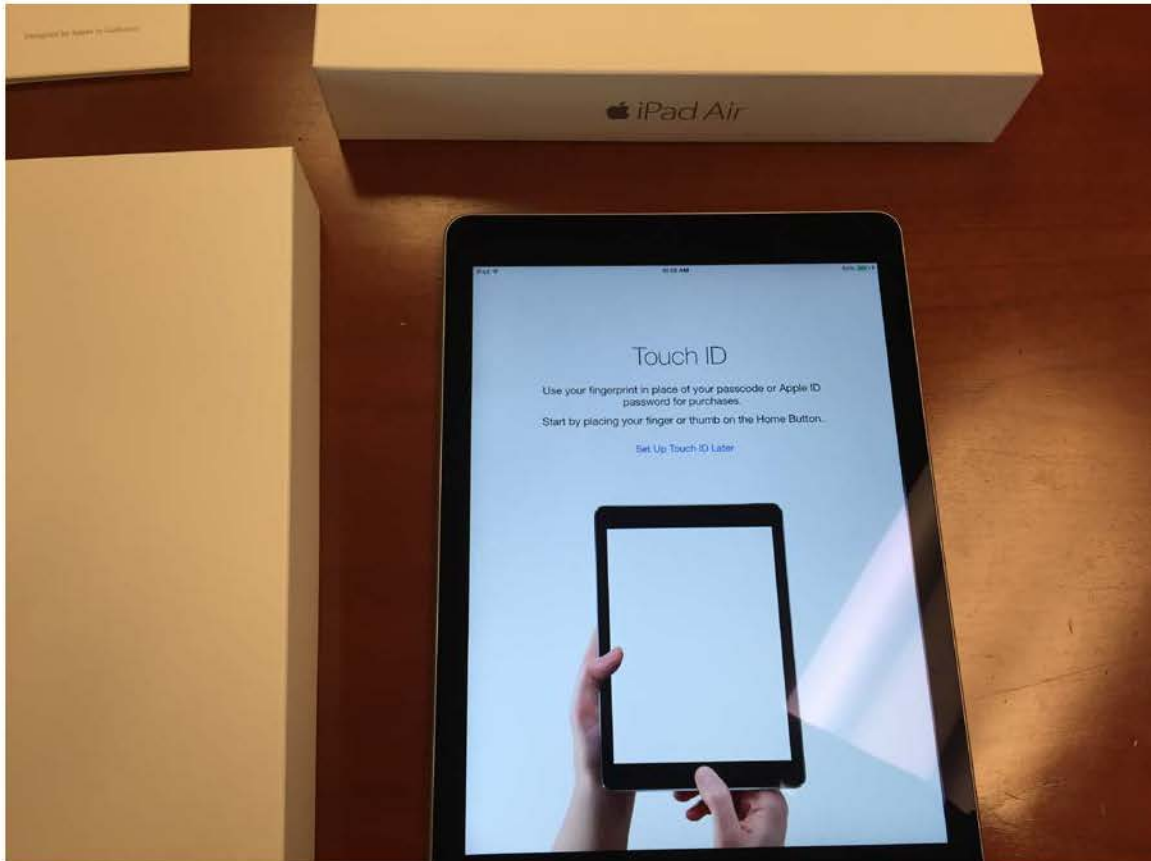
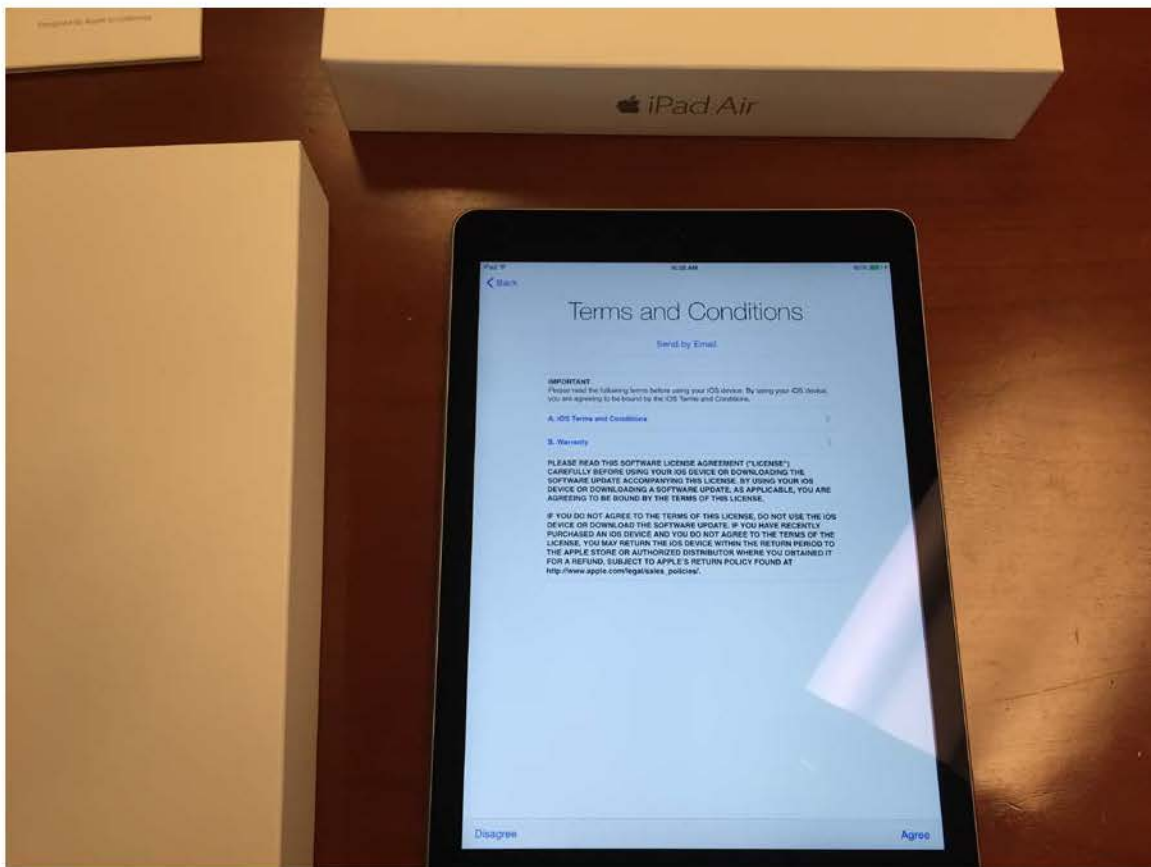


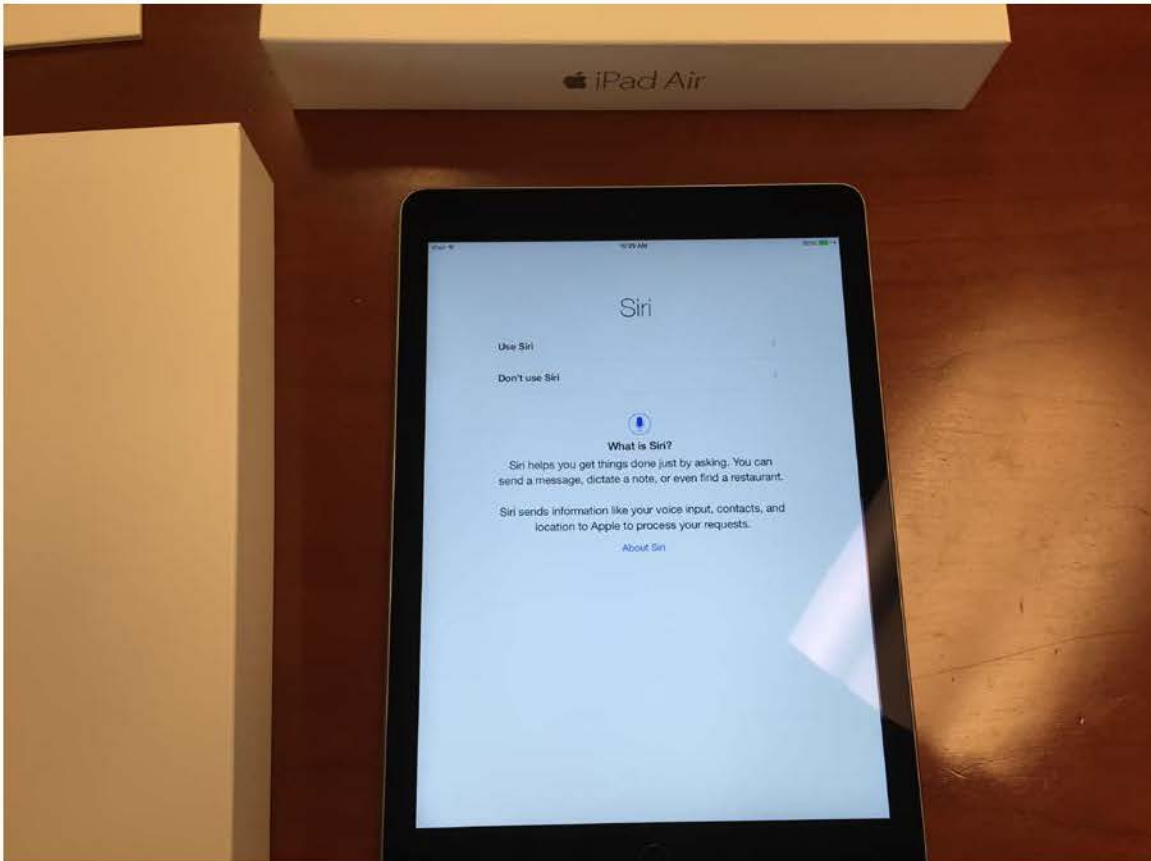
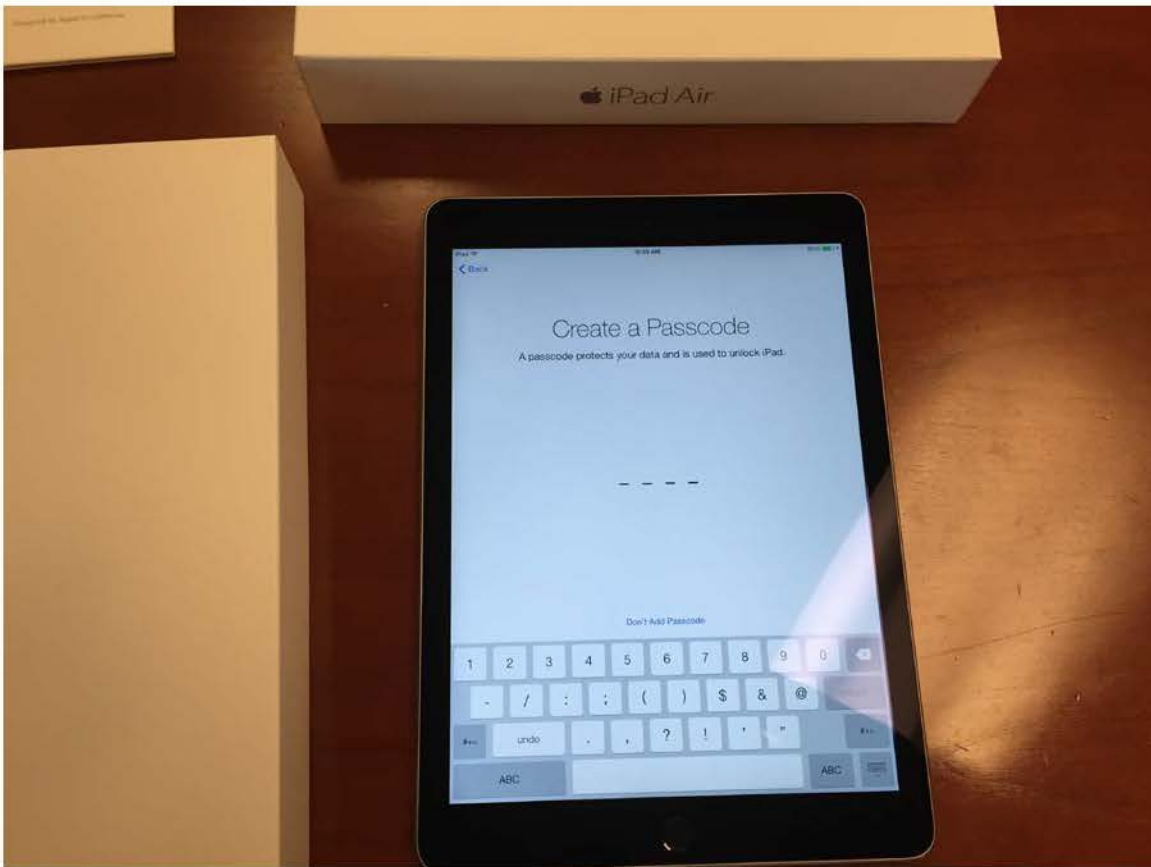


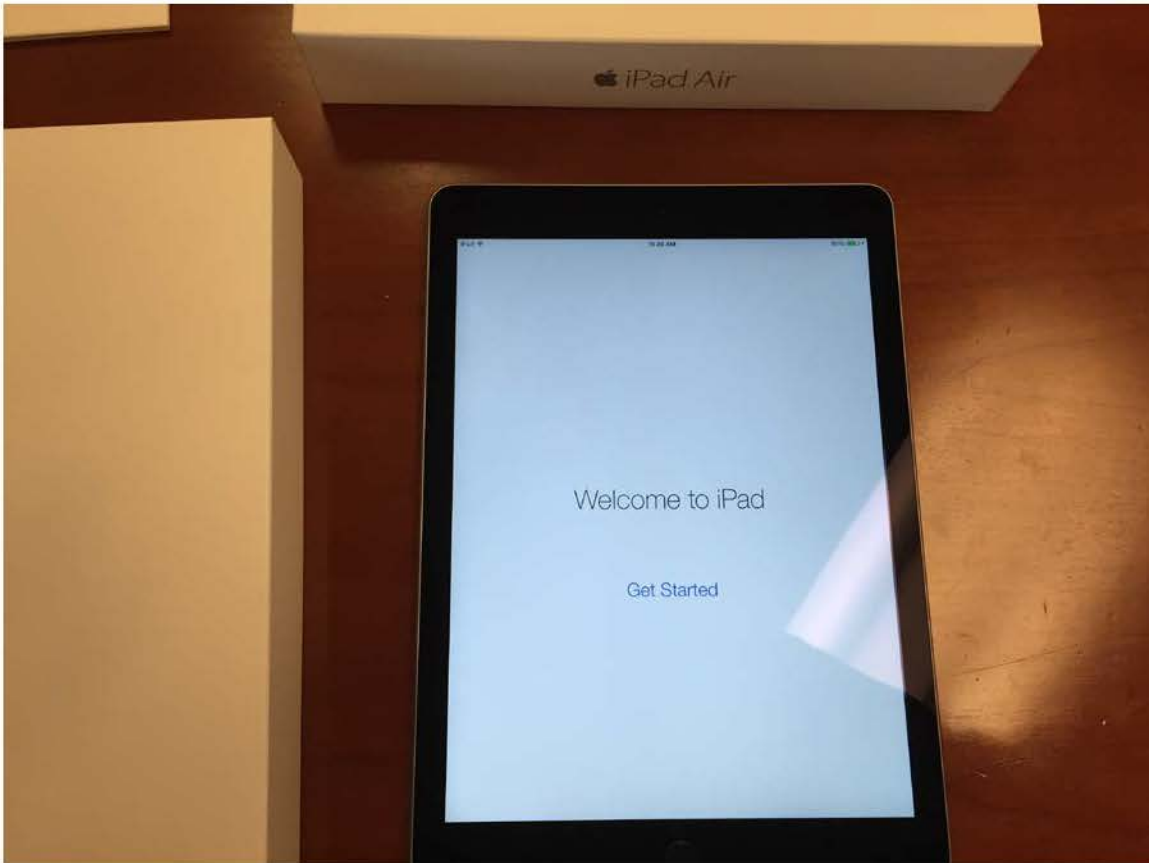
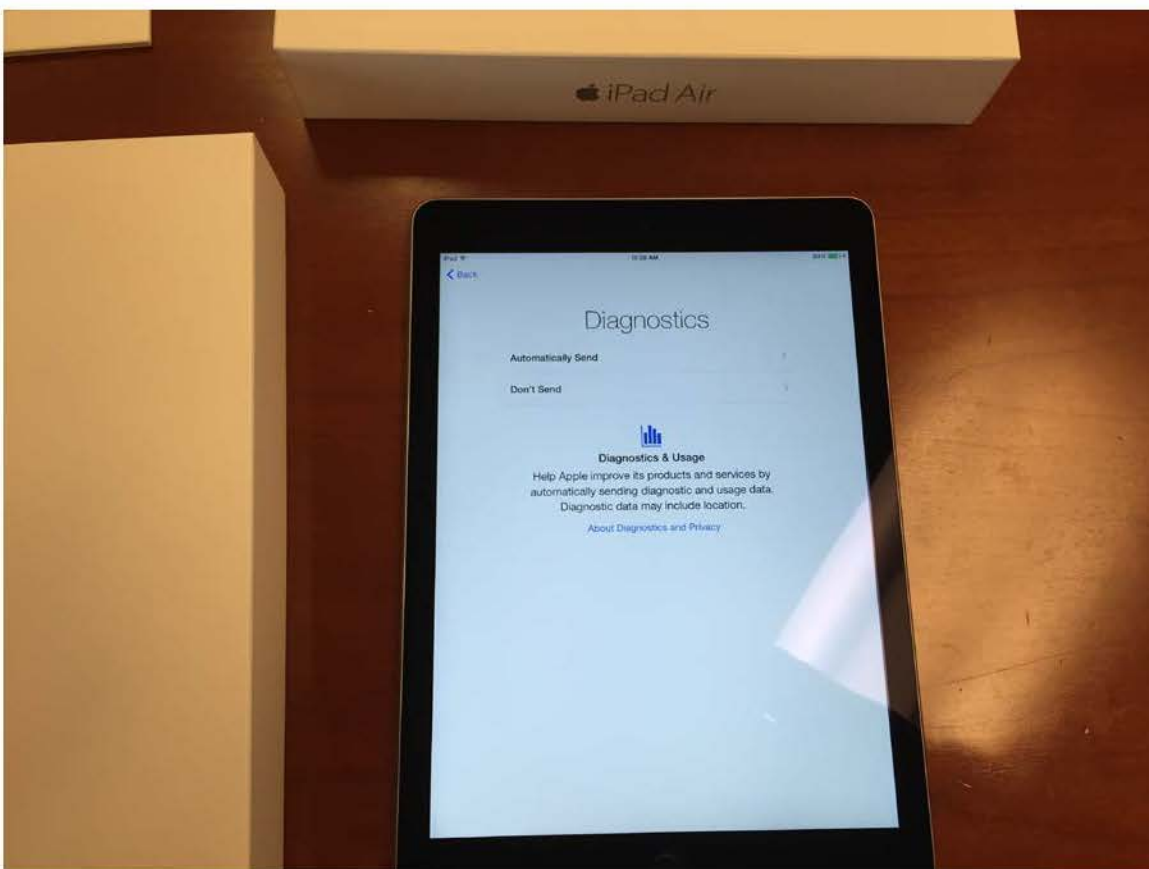
8. I connected to the FTI Guest Wireless network and completed the setup including a secure PIN code to ensure the iPad cannot be accessed by outside of this matter.



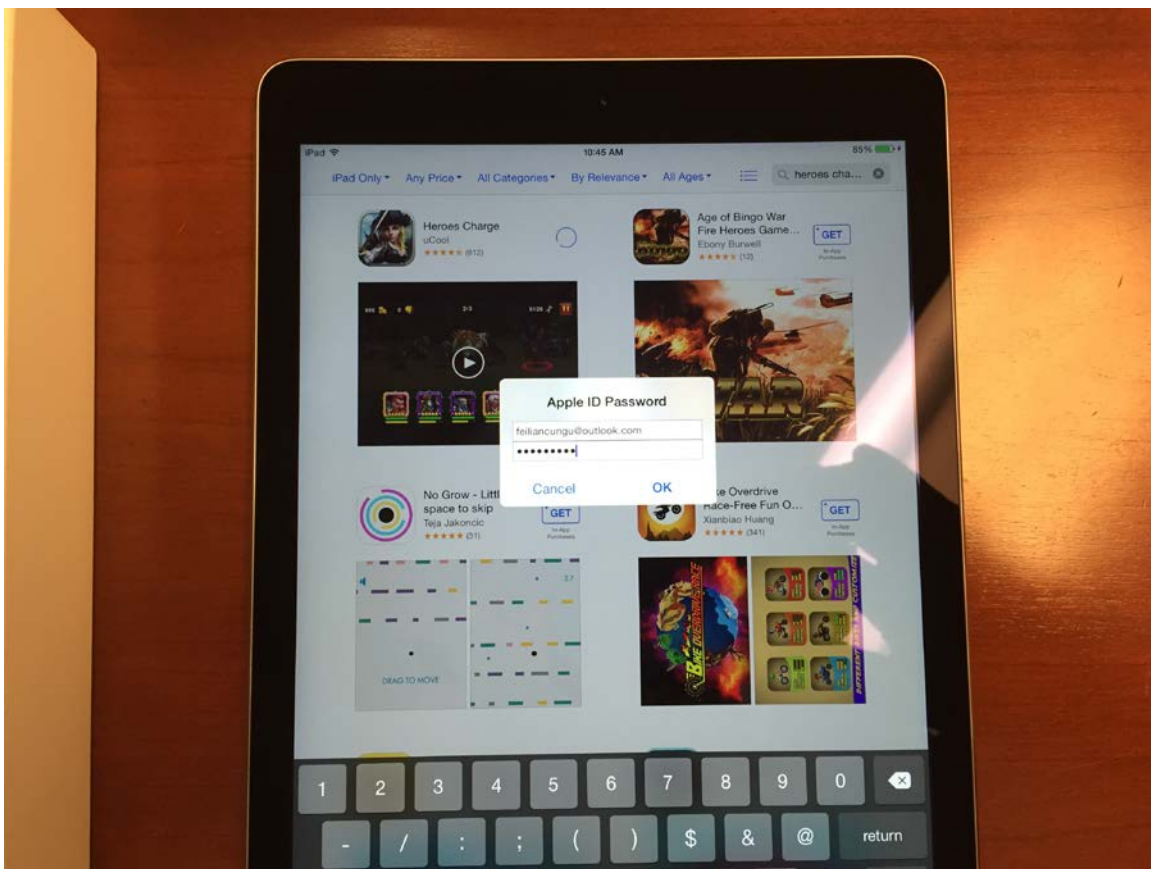


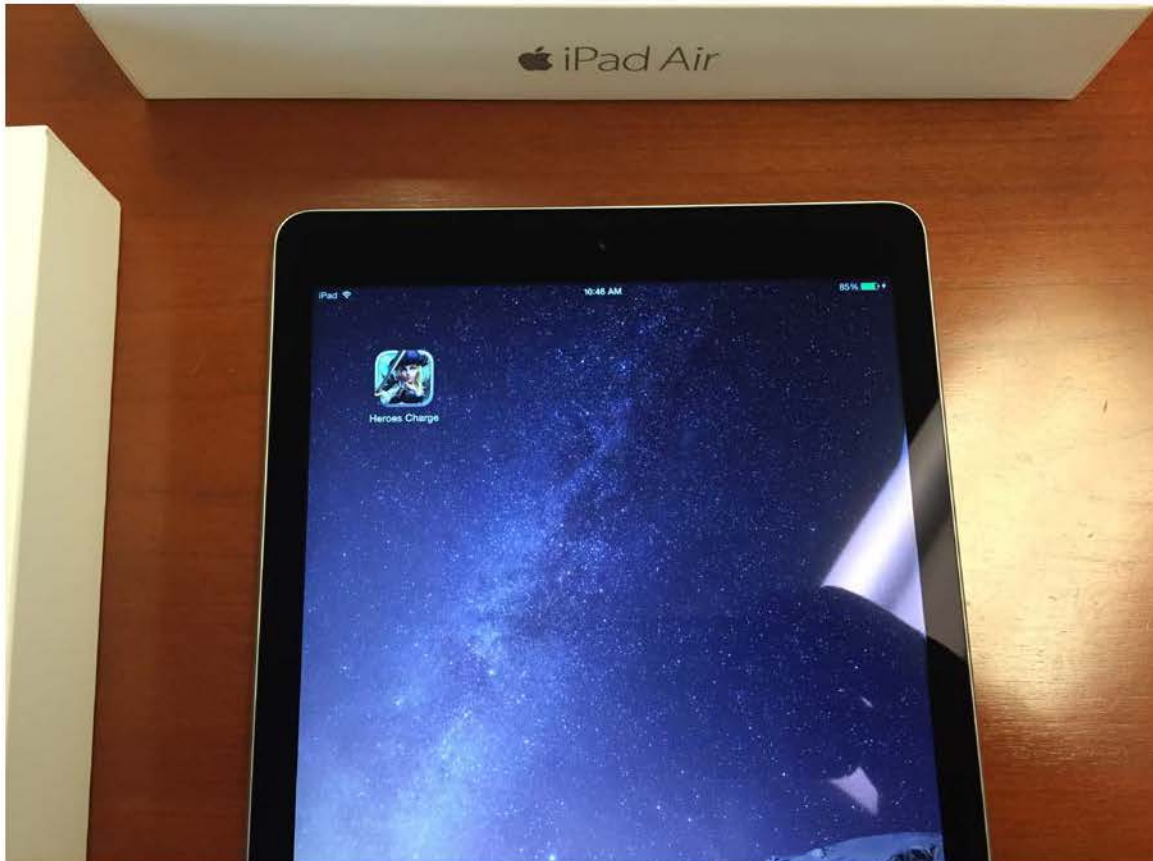
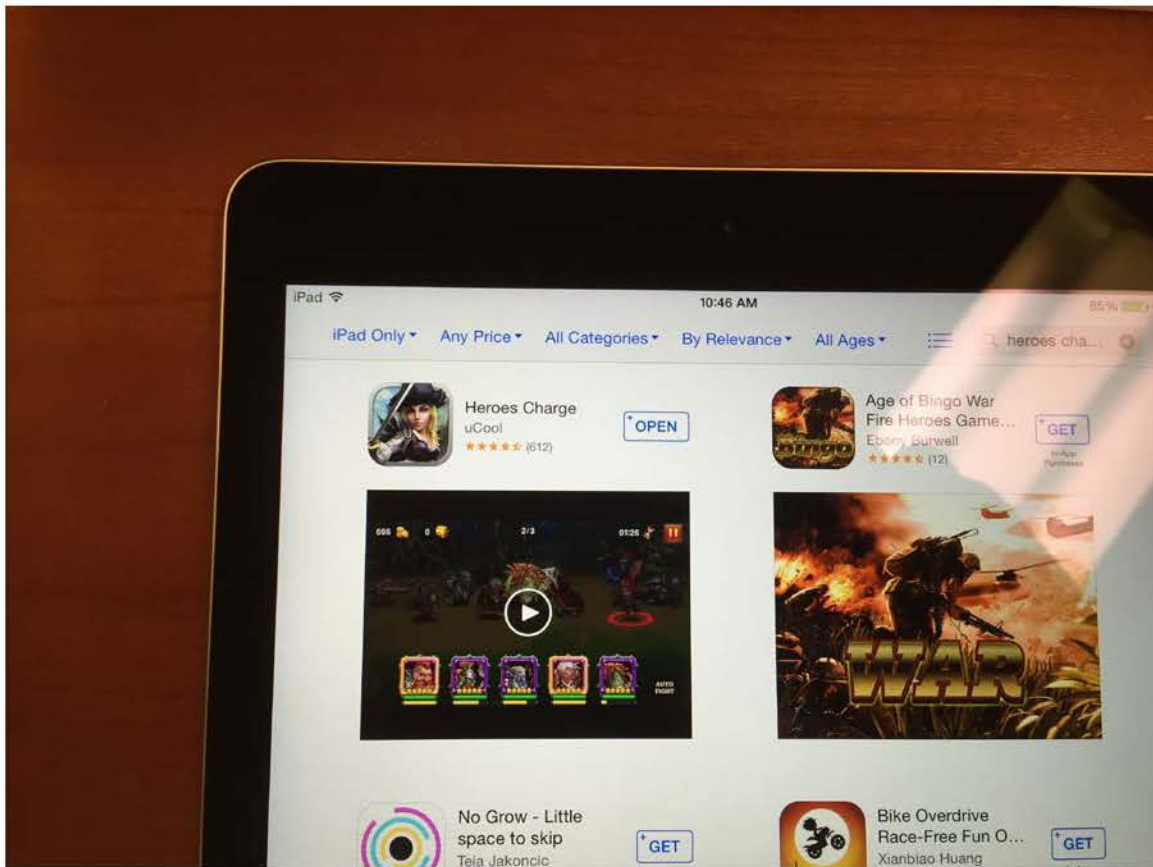






9. After the iPad was set up I searched the Apple App Store for a game application called Heroes Charge by uCool. I found the application, which had 612 review ratings at the time of my examination. Heroes Charge is a free game with In App purchases. Although the application is available at no initial cost, an Apple ID is required authenticate the user before the application can be downloaded and installed. Using an Apple account provided by Baker & McKenzie, I downloaded Heroes Charge from the Apple App Store.





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2 10. After Heroes Charge had completed installation, I activated the “Sleep/Wake” button
3 to return the iPad to its rest state. I then started a video capture of my examination, which lasted 4
4 minutes and 22 seconds. A true and correct copy of the video capture of my examination is attached
5 as Exhibit A:

6 11. The examination included my executing the following actions:

- 7
8 a) Starting the iPad and entering the PIN code to access the Heroes Charge application
9 b) Attempting to open the application. The application spontaneously terminated on the first open
10 attempt.
11 c) The second attempt to open the application was successful.
12 d) After successfully opening, the application began downloading 181.3 megabytes of automated
13 updates. After all updates had been downloaded they were automatically installed. This is
14 normal and expected behavior for iOS games, and is outside of end user control.
15 e) After the updates had been applied, the application automatically restarted and completed
16 another check for updates. No additional updates were downloaded or installed.
17 f) Heroes Charge authenticates users through the Apple Game Center. On first activation it
18 prompts the user to use an existing Game Center ID or to create a new one. An existing ID is
19 required to start the game from a prior saved point.
20 g) Game save files for iOS games are not accessible to end users and are typically stored on the
21 game company’s servers in proprietary formats and encrypted.
22 h) Using an Apple Game Center account provided by Baker & McKenzie, I selected the option to
23 restore the game to an existing save point. This was required to expedite the application
24 examination, as I otherwise would have been required to learn and play the game for an
25 extensive amount of time to reach the necessary advancement level to conduct the examination.
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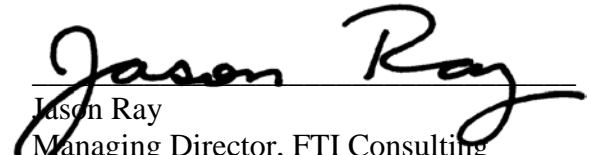
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- 2 i) The application automatically closed and reopened for the fourth time to load the previously
- 3 existing save point.
- 4 j) The application presented a series of three game messages. The first two were each a character
- 5 graphic image and a dialog box, overlaying an “Ongoing Events” message in the background.
- 6 The third was only the “Ongoing Events” message. The date on the “Ongoing Events” message
- 7 in all three displays was Thursday, March 19, 2015. I was conducting the test at approximately
- 8 10:30 AM Pacific time on Wednesday, March 18, 2015. The difference in dates suggests the
- 9 uCool game servers are likely in Asia. I did not research the location of their servers.
- 10
- 11 k) I selected the Close Message icon (a red X) in the upper right corner of each message to reach
- 12 the main game screen
- 13
- 14 l) One of the game locations depicted on the screen in the upper left was labeled “Ancient
- 15 Temple.” I selected this location, which opened an interface screen for this game location. In
- 16 the lower left corner of the interface were two buttons “Logs” and “Rules”.
- 17 m) I selected the “Rules” button which displayed a pop up window describing the game rules for the
- 18 “Ancient Temple.” There were 5 rules numbered 1. through 5.
- 19 n) I repeatedly touched the number 5 at the beginning of the 5th rule. On the 12th touch, a dialog
- 20 box was displayed that stated “LILITH GAMES ©” and a red “OK” button to close the dialog
- 21 box.
- 22
- 23 o) This type of hidden message is referred to as an “Easter Egg”. It is not possible for such an
- 24 “Easter Egg” to appear accidentally - a programmer has to write specific code to monitor for a
- 25 screen touch in a specific location and sequence, and the additional code to display the “Easter
- 26 Egg” message.
- 27 p) I stopped the video at this point, repeated step n) to bring the message up again, and then
- 28 restarted the video to record it separately.

1
2 q) Based upon my examination and knowledge of iOS games and software development, the code
3 for the “Ancient Temple” rules screen in Heroes Charge was written by a programmer working
4 for Lilith Games.
5

6
7 12. A true and correct copy of the recorded video reflecting my examination described in
8 paragraph 11 above is attached as Exhibit A of this declaration

9 I declare under the penalty of perjury that the foregoing is true and correct.
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11 Dated March 30, 2015

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13 Jason Ray
14 Managing Director, FTI Consulting
15 Technology, LLC
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